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10/729,561	12/05/2003	Jack Valenti	1714-2	4329
7590 05/12/2005			EXAMINER	
Galgano & Burke			SMITH, RICHARD A	
Suite 35				
300 Rabro Drive			ART UNIT	
Hauppauge, NY 11788			PAPER NUMBER	
			2859	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/729,561

Applicant(s)

VALENTI, JACK

Examiner

R. Alexander Smith

Art Unit

2859

AM

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-30 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040106.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### *Claim Objections*

1. Claims 5, 6, 9, 10, 12, 15, 16, 18 and 27-30 are objected to because of the following informalities:

Claim 5: "said channel" lacks antecedent basis.

Claim 6: "a plurality of recesses" does not properly refer to its antecedent in claim 5.

Claim 9: "said channel" lacks antecedent basis.

Claim 10: "a plurality of recesses" does not properly refer to its antecedent in claim 9.

Claim 12: The claim is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. This claim is objected to as being non-limiting since the limitations in this claim have already been disclosed as claim 2.

Claim 15:

"a generally U-shaped block" should start with --the-- in order to properly refer to its antecedent in claim 13.

"at least one notch" does not properly refer to its antecedent in claim 13.

Furthermore, how can one notch be on different portions?

Throughout the claims the applicant has used "portion" with differing meanings

making the claim language confusing. For example: In claim 15, portion represents a location on the block and an apparently length of the notch (or recess or groove depending on which claim is being addressed). In claim 13 from which claim 15 depends, "through a portion" also represents a threaded bore for a threaded rod. *The applicant should review the use of "portions" throughout the claims and provide more accurate descriptions, or at least differing description when portion is used to describe a location, an aperture, or a length of the notch extending partially along a length of the block.*

Furthermore, the applicant should note that "through a portion" does not provide any information relating to the length of the notch, therefore, any notch of any length meets the limitation of "through a portion" as claimed.

Claim 16:

The claim is replete with antecedent basis errors.

The claim is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. This claim is objected to as being non-limiting since the limitations in this claim have already been disclosed in lines 5-7 of claim 13.

Claim 18:

It is unclear as to the antecedent relationship between "means for releasably attaching" in claim 18 and "means for releasably attaching" in claim 17. "at least two hinges" does not properly refer to its antecedent in claim 17 since one hinge has already been introduced.

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Claim 25: "at least two of said channels are formed in separate bodies" makes the claim language unclear since as written it is unclear if this means that each separate body has a channel, or if each separate body has at least two channels.

Claim 26: "a plurality of recesses" does not properly refer to its antecedent introduced in claim 25.

Claim 27 is objected to under 35 CFR §1.75(b) since claim 27 is essentially a duplicate claim of claim 17. The only difference being the limitations of claim 17 are drawn to an assembly and the limitations of claim 27 are drawn to a device. However, there are no limitations in the claims that differentiate the device and the assembly.

Claim 30: "releasably" should be --releasably--.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships for each of these claims is that the recesses disclosed are part

of the means for releasably attaching introduced in claim 17 and this is not disclosed in claim 17, claim 21 or the respective claims 23-26.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 1,352,647 to Benton.

Benton discloses a device for installation of a door comprising means for releasably attaching a level (one of the 10's); and means of releasably connecting said attaching means to a hinge on a door (the other 10), said connecting means connects said attaching means directly to a hinge, said attaching means comprises a rotatable threaded rod, wherein said attaching means is generally U-shaped and said connecting means comprises a recess formed in said body (in this case, the 10 with recesses 21 as shown in figure 4) and said connecting means comprises a plurality of recesses to facilitate attachment of a level alternatively to a right-handed or left-handed hinge (via rotation of the 10's), said attaching means comprises a clamp.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton in view of U.S. 4,934,706 to Marshall.

Benton teaches all that is claimed as discussed in the above rejections of claims 1, 2, 11 and 12 except for said attaching means comprises a channel.

Marshall discloses a U-shape clamp wherein the length of the clamp along the clamping surface, i.e., the height as shown in figure 1, is elongated forming a channel. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device, taught by Benton, by modifying the attaching means to be a channel, as suggested by Marshall, in order to provide a long clamping surface which will help to make sure the clamp is perpendicular to the item to which it is attached.

8. Claims 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton in view of U.S. 4,934,706 to Marshall and U.S. 2,419,941 to Belzung.

Benton teaches all that is claimed as discussed in the above rejections of claims 1, 2, 11 and 12 except for the generally U-shaped device being a U-shaped block and comprising at least one notch on either side of the block and extending through a portion of the block and dimensioned to slide over a hinge.

Marshall discloses a U-shape clamp in the form of a block wherein the length of the clamp along the clamping surface, i.e., the height as shown in figure 1, is elongated forming a channel and a block. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device, taught by Benton, by modifying the device to include a block, as suggested by Marshall, in order to provide a long clamping surface which will help to make sure the clamp is perpendicular to the item to which it is attached.

Belzung discloses a device having a notch (figure 3) extending through a portion of a block (9) in order to securely hold a round item therein when clamped. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device, taught by Benton, to include a notch, as suggested by Belzung, in order to allow better securement to round items.

With respect to the notch being dimensioned to slide over a hinge: The condition is met and is dependent on the degree to which the threaded rod opposing the notch is backed away from the notch before application to the hinge. If opened far enough, then the device can be placed directly from the side onto a hinge. If on the other hand the user does not want to turn the threaded rod a lot, then he can back it off enough to slip the device onto or off of the hinge and perform minimal tightening or loosening via the threaded rod. This will meet the limitations as claimed.



With respect to fitting notch fitting snugly: This condition is met when the threaded rod is tightened with respect to the notch. This will meet the limitations as claimed.

9. Claims 17-20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton in view of U.S. 4,939,846 to Damiano et al.

Benton teaches all that is claimed as discussed in the above rejections of claims 1, 2, 11 and 12 except for a level, and the attaching means being for at least two hinges.

Damiano et al. discloses that a level is used in combination with a clamp in order to check plumb. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device and assembly involving the means for attaching and its intended uses for doors, windows, framing, setting of hinges, etc., taught by Benton, to include a level, as suggested by Damiano et al., in order to check the verticality of the door, window, framing, setting of hinges, etc.

With respect to the attaching means being for at least two hinges, a plurality of separate U-shaped clamps, at least two threaded rods,: It would have been obvious to one having ordinary skill in the art at the time the invention was made to include two attaching means, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, St. Regis Paper Co. v Bemis Co., 193 USPQ 8, and since doors with hinges and framing are long enough that numerous support points and attachment means are commonly used when installing to assure the doors, windows, framing, setting of hinges are mounted correctly.

10. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton and Damiano et al. as applied to claims 17-20 and 27 above, and further in view of U.S. 4,934,706 to Marshall.

Benton and Damiano et al. together teach all that is claimed as discussed in the above rejections of claims 17-20 and 27 except for each of the separate U-shaped clamps being U-shaped channels.

Marshall discloses a U-shape clamp wherein the length of the clamp along the clamping surface, i.e., the height as shown in figure 1, is elongated forming a channel. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device and assembly, taught by Benton and Damiano et al., by modifying each of the attaching means to be a channel, as suggested by Marshall, in order to provide a long clamping surface which will help to make sure the clamp is perpendicular to the item to which it is attached.

With respect to the body comprising at least one recess and a plurality of recesses: The inner part of the U-shaped channel, or channels since each attachment means has two, as disclosed by Benton is in a broad sense a recess.

With respect to the recess being dimensioned to slide over a hinge: The condition is met and is dependent on the degree to which the threaded rod opposing the recess is backed away from the recess before application to the hinge. If opened far enough, then the device can be placed directly from the side onto a hinge. If on the other hand the user does not want to turn the threaded rod a lot, then he can back it off enough to slip the device onto or off of the hinge and

perform minimal tightening or loosening via the threaded rod. This will meet the limitations as claimed.

11. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton and Damiano et al. as applied to claims 17-20 and 27 above, and further in view of U.S. 6,131,298 to McKinney et al.

Benton and Damiano et al. together teach all that is claimed as discussed in the above rejections of claims 17-20 and 27 except for the attaching means being integrally formed with the level.

McKinney et al. discloses a level having attaching means (30 with 37) adapted to be integral with the level so that the level can be very quickly attached to vertical supports (figure 9) when desired and to allow the carpenter the use of his hands. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device and assembly, taught by Benton and Damiano et al., to include a level with integrally formed attaching means, as suggested by McKinney et al. in order to allow the user the means to quickly secure the level and to allow the carpenter the use of his hands.

With respect to the body comprising at least one recess: The inner part of the U-shaped channel is in a broad sense a recess.

With respect to the recess being dimensioned to slide over a hinge: The condition is met and is dependent on the degree to which the threaded rod opposing the recess is backed away from the recess before application to the hinge. If opened far enough, then the device can be

placed directly from the side onto a hinge. If on the other hand the user does not want to turn the threaded rod a lot, then he can back it off enough to slip the device onto or off of the hinge and perform minimal tightening or loosening via the threaded rod. This will meet the limitations as claimed.

*Allowable Subject Matter*

12. Claim 15 would be allowable if rewritten to overcome the claim objections set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

13. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

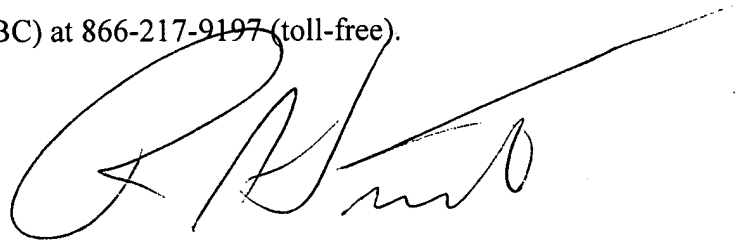
*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related devices and assemblies.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'RAS', with a long horizontal flourish extending to the right.

R. Alexander Smith  
Primary Examiner  
Technology Center 2800

RAS  
May 9, 2005